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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)*

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1	3
II.	Constitutional and political developments	2–7	3
III.	Mine clearance	8–11	5
IV.	Economic conditions	12–35	6
	A. General	12–17	6
	B. Public finance	18	7
	C. Fisheries	19–21	7
	D. Agriculture, land tenure and livestock	22	8
	E. Tourism	23	8
	F. Transport, communications and other basic facilities	24–28	8
	G. Environment	29–35	9
V.	Social conditions	36–41	11
	A. General	36–37	11
	B. Public health	38	11

* A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas) (see ST/CS/SER.A/42).

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	C. Social security and welfare	39	11
	D. Education	40–41	12
VI.	Participation in international organizations and arrangements	42–45	12
VII.	Consideration by intergovernmental organizations and forums	46–51	13
VIII.	Future status of the Territory	52–55	14
	A. Position of the administering Power	52–53	14
	B. Position of the Government of Argentina	54–55	15
IX.	Consideration by the United Nations	56–63	16
	A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	56–60	16
	B. Special Political and Decolonization Committee (Fourth Committee)	61–62	17
	C. Action taken by the General Assembly	63	18

I. General

1. The Falkland Islands (Malvinas) is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland, which comprises two large islands, known as East and West Falkland as well as some 200 smaller islands, and has a total area of about 12,173 square km. The Falkland Islands (Malvinas) are situated in the South Atlantic, about 770 km north-east of Cape Horn and about 480 km east of the South American mainland. South Georgia, located about 1,300 km south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 km east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate territory; the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. According to the latest census (2006), the population of the Territory was 2,478 (not including residents temporarily absent and civilians working in conjunction with the Ministry of Defence), up from 2,391 in 2001, representing the largest population since 1931.[1]

II. Constitutional and political developments

2. On 17 November 2005, the last general elections were held for all eight members of the Legislative Council, five from the Stanley constituency and three from the Camp (i.e., outside Stanley), for a four-year term. The current Governor, Alan Huckle, took up his appointment in August 2006. The Legislative Council meets regularly to pass legislation for "the peace, order and good government of the Falkland Islands" (Malvinas). According to the administering Power, legislative councillors elect a Speaker to chair the Legislative Council. They appoint a Chief Executive as head of the civil service to implement policy. Each councillor takes responsibility for a particular portfolio and works closely with the relevant departments. They do not currently have ministerial responsibility, although this is under active consideration as part of the current constitutional review. Questions of policy are considered by the Executive Council, which consists of three members of the Legislative Council who are elected annually from their own number, in addition to two ex officio members who have no voting rights. The Attorney General and the Commander of British Forces on the islands also have the right to attend meetings of the Executive Council but do not vote. The Governor normally presides at meetings of the Executive Council and is, for the most part, obliged to consult the Executive Council in respect of his functions. However, he retains responsibility for foreign policy and defence. The Territory is currently undertaking the final rounds of a constitutional review.[1] Detailed information on the 1985 Constitution and Government of the Falkland Islands (Malvinas) is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

3. Regarding the reform process of the Constitution of the Falkland Islands (Malvinas), according to information provided by Argentina, the Argentine Government stressed its rejection in the statement transmitted to the Secretary-

Note: The information contained in this working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations as well as information provided by the Government of Argentina and that available in published sources.

[1] Information provided by the administering Power, 9 January 2008.

General by its Permanent Representative on 18 February 1985, to the effect that "the terms of this reform imply a total disregard of United Nations General Assembly resolutions 37/9, 38/12 and 39/6 and, in particular, of the spirit of resolution 31/49, which called upon the parties to refrain from taking decisions that would unilaterally modify the current situation" (A/40/132).

4. According to information provided by Argentina, on 10 June 2007 the Government of Argentina issued a press release in connection with the observance of the "Day of Affirmation of Argentine Rights over the Malvinas Islands and the Antarctic Sector", which concluded as follows:

> "On this important date, the Argentine Government reiterates its unwavering sovereignty claim over the Malvinas Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas. At the same time, it finds the United Kingdom's unwillingness to resume negotiations inexplicable and reaffirms its permanent willingness to resume such negotiations with a view to settling as soon as possible and in a just and conclusive manner the still unresolved sovereignty dispute."

5. In an annex to a letter dated 21 December 2007 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/62/625, annex I), Argentina conveyed that it had informed the institutions and member States of the European Union on 13 December 2007 of its rejection of "the attempt to include those parts of the Argentine national territory in the list of territories to which the 'Association of the overseas countries and territories' regime provided for in the Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community signed on 13 December 2007 applies". According to the administering Power, a note related to that issue was drawn up by the European Union Presidency in connection with the communiqué of the Southern Common Market (MERCOSUR) Summit of 18 December 2007, putting forward the European Union's position on the applicability of the Treaty of Lisbon. That note reiterated that "the Treaty of Lisbon, signed on 13 December 2007, does not affect the status of the Falkland Islands, South Georgia, South Sandwich Islands and the British Antarctic Territory as associated territories".

6. In a letter dated 3 January 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Argentina to the United Nations addressed to the Secretary-General (A/62/639), the Government of Argentina transmitted the text of a press release "on the occasion of the latest anniversary of the illegal occupation of the Malvinas Islands by the United Kingdom" in 1833, that stated inter alia the following:

> The Argentine Government reiterates the need to comply with the numerous resolutions of the United Nations and declarations of the Organization of American States, among many other forums, calling on the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume bilateral negotiations in order to find a peaceful, just and lasting solution to the sovereignty dispute as soon as possible.

7. In a letter dated 16 January 2008 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations

addressed to the Secretary-General (A/62/660), the Permanent Representative referred to Argentina's letter dated 3 January 2008, transmitting the text of the aforementioned press release of that same date, and stated the following:

> The Government of the United Kingdom of Great Britain and Northern Ireland has no doubt about the sovereignty of the United Kingdom over the Falkland Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas, and rejects the claims by the Government of Argentina to sovereignty over those islands and maritime areas and that the Falkland Islands are under illegal occupation by the United Kingdom.
>
> The principle of self-determination, enshrined in the Charter of the United Nations, underlies our position on the sovereignty of the Falkland Islands. There can be no negotiation on the sovereignty of the Falkland Islands unless and until such time as the Falkland Islanders so wish. The Islanders regularly make it clear that they wish the Falkland Islands to remain under British sovereignty.
>
> The United Kingdom continues to believe that there are many opportunities for cooperation in the South Atlantic under the 'Sovereignty Umbrella' established in the United Kingdom-Argentina Joint Statement of 19 October 1989, which would be of mutual benefit. The United Kingdom has made a number of recent proposals in this respect and remains keen to foster a constructive relationship with Argentina and to promote practical cooperation in the South Atlantic.

III. Mine clearance

8. On 11 October 2001, the Governments of Argentina and the United Kingdom concluded an agreement, covered by the formula on sovereignty, regarding a feasibility study of the clearance of landmines in the Falkland Islands (Malvinas), to fulfil the obligations undertaken by both countries in the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer or Anti-Personnel Mines and on Their Destruction of 1997, known as the Ottawa Convention.

9. On 3 August 2006, another agreement covered by the formula on sovereignty was concluded, in addition to that of 11 October 2001. It established the inclusion of unexploded ordnance inside the mined area within the scope of the 2001 exchange of notes and a procedure to contract a private company to undertake some specific works foreseen in the main study phase, including a field survey in the Falkland Islands (Malvinas).

10. Following the completion of the field survey by Cranfield University under arrangements previously addressed in the 2007 working paper (A/AC.109/2007/13), the University submitted a draft report to the United Kingdom-Argentina Joint Working Party. At the thirteenth to seventeenth meetings of the Joint Working Party, held during 2007 in either Buenos Aires or London, the draft text of the feasibility study and its annexes was agreed and adopted. Moreover, the common information to be released to the States Parties to the Ottawa Convention was finalized. The feasibility study was submitted for the approval of both Governments, which was confirmed with an exchange of notes in Buenos Aires on 5 October 2007. This concluded the work of the Joint Working Party as outlined in the 2001 agreement.

11. At the eighth Meeting of States Parties to the Ottawa Convention, held in Jordan in November 2007, both Argentina and the United Kingdom made national statements announcing the completion of the joint Argentina-United Kingdom feasibility study on the clearance of landmines in the Falkland Islands (Malvinas), while a joint presentation made by the United Kingdom and Argentina delegations outlined the key findings of the report. The report concluded that clearance was possible but would present significant technical challenges and risks, including those related to a possible environmental impact. Options for clearance as presented in the feasibility study are being considered.[2]

IV. Economic conditions

A. General

12. According to the administering Power, the gross domestic product of the Falkland Islands (Malvinas) is estimated to be about 75 million British pounds (£) annually. Increasing revenue from corporation tax indicates a buoyant and growing private sector. The fishing industry remains the most important sector of the economy and the tourism sector is seeing rapid growth. In addition, since its formation in 1984, the Falkland Islands Development Corporation has been encouraging the development of a private sector.

13. The results of the latest census, taken on 8 October 2006, revealed that the average Falkland (Malvinas) Islander lives in the only town, Stanley, works an average of 49 hours per week and is paid from £12,000 to £14,000 per year.[1]

14. As reflected in the official record of the meeting of the Special Committee, held on 21 June 2007 (A/AC.109/2007/SR.8), the Minister for Foreign Affairs, International Trade and Worship of Argentina, Jorge E. Taiana, recalled that in July 2000, the South-West Atlantic Hydrocarbons Commission had held its last meeting owing to diverging interpretations of the scope of the understanding between the two countries. The Foreign Minister further stated that the United Kingdom continued to carry out unilateral acts contrary to the 1995 Joint Declaration on Cooperation over Offshore Activities in the South-West Atlantic. The Argentine Government had intended to convey to the Government of the United Kingdom its conclusions on that matter at a diplomatic meeting proposed by Argentina, but the United Kingdom had refused to attend. Consequently, on 27 March 2007, the Government of Argentina announced its decision to withdraw from the Declaration.

15. Continuing, the Foreign Minister said that on 17 April 2007, the Heads of State present at the First South American Energy Summit urged the two countries to renew negotiations, who hoped that a new agreement could be concluded regarding the exchange of goods and services between the Argentine mainland and the islands under the sovereignty formula, and that confidence-building measures could be taken with respect to military matters.

16. Additional information is contained in a letter dated 28 March 2007 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/61/827), transmitting a note addressed by Foreign Minister

[2] Information provided by the administering Power, 9 January 2008; www.apminebanconvention.org/meetings-of-the-states-parties/8msp.

Taiana of Argentina to the United Kingdom Foreign Secretary, Margaret Beckett, on 27 March 2007, regarding the Joint Declaration on Cooperation over Offshore Activities in the South-West Atlantic. Also related to that subject is a note verbale dated 16 October 2007 from the Permanent Mission of Argentina to the United Nations addressed to the Secretary-General (A/62/494). It enclosed the text of a note dated 11 October 2007 transmitted by the Argentinean Embassy of the Argentine Republic in the United Kingdom to the Latin America team of the Foreign and Commonwealth Office, regarding licences for activities related to the exploration for and exploitation of hydrocarbons.

17. In a letter dated 5 December 2007 from the Permanent Representative of the United Kingdom to the United Nations addressed to the Secretary-General (A/62/571), the Permanent Representative referred to Argentina's note verbale dated 16 October 2007 (A/62/494) and stated inter alia the following:

> The Government of the United Kingdom has no doubts about the sovereignty of the United Kingdom over the Falkland Islands, South Georgia and South Sandwich Islands and their surrounding maritime areas, and rejects the claim by the Government of Argentina to sovereignty over those islands and areas and that the Falkland Islands are under illegal occupation by the United Kingdom.

B. Public finance

18. The Territory's financial year runs from 1 July to 30 June. According to the administering Power, the Territory maintains a balanced budget. For 2007-2008, the revised estimate for total revenue was £50 million, of which £16 million was estimated to come from fisheries, £10.7 million from investment income, £8.5 million from taxation and £4.9 million from public works. During the same period, the revised estimate for expenditure was £41 million.[1]

C. Fisheries

19. Loligo and Illex squid are the mainstay of the fisheries and economy of the Territory, as previously reported (see A/AC.109/2007/13). In addition to those two squid species, a number of finfish are targeted, including southern blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fishery. Following the enactment of the Fisheries (Conservation and Management) Ordinance in 2005, the Territory began implementation of the new licensing regime, which introduced a system of long-term individual transferable rights owned by the islanders. The new regime gives greater control over the fishery resources of the Territory to local residents and businesses, which will promote higher standards of conservation. According to information provided by Argentina, on 1 July 2006 the Government of Argentina issued a communiqué reaffirming its earlier rejection of the unlawful adoption by the United Kingdom of a new fisheries policy. According to the administering Power, on 14 June 2005 the United Kingdom rejected Argentina's protest. More information on the subject is contained in the 2007 working paper prepared by the Secretariat (ibid.).

20. On 6 and 7 September 2006 in London, and on 14 and 15 March 2007 in Buenos Aires, two special diplomatic meetings took place between Argentina and

the United Kingdom with the objective of analysing the mandate of the Commission on Fishing in the South Atlantic. The Commission was created following the Joint Declaration of 28 November 1990. More information on the subject is contained in the 2007 working paper prepared by the Secretariat (ibid.).

21. At the meeting of the Special Committee held on 21 June 2007, Foreign Minister Taiana of Argentina stated, as reflected in the official meeting record (see A/AC.109/2007/SR.8), that the United Kingdom had taken a number of unilateral measures in the illegally occupied maritime areas that had a long-term impact on fishery resources, in violation of the Joint Declaration of 28 November 1990, of General Assembly resolutions and of the Convention on the Conservation of Antarctic Marine Living Resources. According to Foreign Minister Taiana, those included attempts to require vessels flying the flags of third States to purchase fishing licences and to impose other similarly illegal requirements. The Foreign Minister went on to say that those measures had forced Argentina to lodge protests with the Organization of American States (OAS) and the relevant United Nations bodies and to consider whether to continue its membership in the South Atlantic Fisheries Commission. Meetings of that Commission had in any case been suspended and, despite two diplomatic meetings, no agreement to resume had been reached.

D. Agriculture, land tenure and livestock

22. According to the administering Power, the most significant change in agriculture in recent years has been the development of the meat industry. Farming is adjusting to produce a dual-purpose sheep that will maximize return from both meat and wool. The Territory has an ongoing 10-year plan to support agriculture, although spending under the plan has decreased every year since 2004. Pasture and genetic improvement programmes lie at the heart of the Government strategy. The amount of farmland in use has declined, with some landowners moving out of stock management either completely or partially when able to earn income from other sources.[1]

E. Tourism

23. There has been a significant expansion in the Falkland Islands (Malvinas) tourism sector in recent years, with an average growth rate in visitor arrivals of 21 per cent between the 2000-2001 and 2007-2008 seasons. According to the administering Power, there were 52,000 cruise ship visitors in the 2006-2007 season, compared to 45,000 in the 2005-2006 season. Over 80,000 cruise ship visitors and 1,000 land-based tourists are anticipated to visit the Falkland Islands (Malvinas) in the 2007-2008 season, and the Tourist Board predicts that annual tourist arrivals will exceed 100,000 over the next few seasons if strong growth continues.[1]

F. Transport, communications and other basic facilities

24. According to the administering Power, the Territory is nearing the end of an extensive road-building programme, which has involved the construction of a road

network to connect outlying settlements and farms. In addition, there is a coastal shipping service to the community outside Stanley, supplying fuel and stores to settlements on the east, west and outlying islands, as well as a regular ferry service between the two main islands, carrying both passengers and freight.[1]

25. During the period under review, the LanChile airline continued to provide a regular service between Punta Arenas, Chile and the Falkland Islands (Malvinas), including two monthly stopovers in Río Gallegos, mainland Argentina, one in each direction, in accordance with the provisions of the Joint Statement of 14 July 1999 between Argentina and the United Kingdom.[3] That service is carried out in the framework of commercial air agreements between Argentina and Chile. The Exchange of Notes Agreement of 23 February 2001 between Argentina and the United Kingdom placed private navigation and private aerial navigation between mainland Argentina and the Falkland Islands (Malvinas) under a formula of sovereignty. Thus, Argentina considers and authorizes non-regular flights to the Falklands (Malvinas) on a case-by-case basis. Since 3 November 2003, Argentina has not authorized non-regular flights between third countries and the Falkland Islands (Malvinas) by any company flying under the flag of a third country. That position does not affect the continuation of the above-mentioned regular service and does not apply to emergency situations or health evacuation flights.[1]

26. Late in 2003 and in the first quarter of 2004, Argentina and the United Kingdom exchanged views on the Argentine proposal aimed at the establishment of a direct regular air service between mainland Argentina and the Falkland Islands (Malvinas) operated by Argentine air companies. The United Kingdom stated that any arrangements would need to be acceptable to the islanders. No agreement between Argentina and the United Kingdom has been reached to date.[1]

27. At the Special Committee meeting held on 21 June 2007 (see A/AC.109/2007/SR.8), Argentine Foreign Minister Taiana stated that Argentina had proposed to the United Kingdom, in November 2003, to establish regular flights between the islands and the Argentine mainland, operated by Argentine airline companies. The Foreign Minister further stated that Argentina continued to await a satisfactory response to its proposal, which would doubtless open up new and constructive prospects for both sides.

28. Communications, both internally and with the outside world, have improved dramatically over the past several years. According to the latest census in 2006, Internet access is available to 740 of the 1,093 computers on the islands and there are 1,068 mobile and 1,428 fixed-line telephones. More information on transport, communications and other basic facilities is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

G. Environment

29. According to the administering Power, the Territory agreed to join the United Kingdom's ratification of the United Nations Framework Convention on Climate Change and the Kyoto Protocol in April 2006. As the second British Overseas Territory to join the United Kingdom's commitment to the Convention and the Protocol, this represents a willingness to promote environmental concerns.

[3] United Kingdom/Argentina Joint Statement, 14 July 1999, www.fco.gov.uk.

30. In the context of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held at Bali, Indonesia, from 3 to 14 December 2007, Argentina transmitted a note to the Secretary of the Convention. According to information provided by Argentina, the note stated inter alia that "the National Report of the Argentine Republic does not include the greenhouse gas emissions of the Malvinas, South Georgias and South Sandwich Islands", which were "the object of a sovereignty dispute expressly recognized by the General Assembly and the Special Committee on decolonization of the United Nations, as well as other international organizations." Further, according to Argentina, this implied an obligation not to take any action that could distort the nature of the dispute, as well as to abstain from taking unilateral actions in contradiction of decisions taken by the United Nations.[4]

31. In the Territory itself, a waste heat recovery programme is being implemented by the power station, to use otherwise wasted electricity to heat the local hospital and community school. The waste heat recovery infrastructure went online in February 2007. The Territory's first major wind farm became operational in 2007 and has been providing 25 per cent of Stanley's electricity. By November 2007, over 300,000 units of electricity had been generated by the turbines. On a smaller scale, wind turbines provide power to homesteads and small settlements throughout the islands. The Falkland Islands Development Corporation offers a 50 per cent grant for wind turbine costs to farmers. Moreover, building control guidelines are being developed by the Territory's environmental Planning Department to promote the building of more energy-efficient housing.[1]

32. The Second Meeting of the Parties to the Agreement on the Conservation of Albatrosses and Petrels (ACAP) was held in Christchurch, New Zealand, from 13 to 17 November 2006 (additional information is contained in the 2007 working paper (A/AC.109/2007/13)). Nine parties were represented, including Argentina and the United Kingdom. The Meeting launched a three-year workplan to secure the seabirds' future.[5]

33. The achievements under the workplan, published as the "Albatross and Petrels in the South Atlantic: Conservation Priorities" was reviewed by an ACAP steering group in October 2007. The Territory had made progress on all high priority tasks. For the period after 2008 five priority areas were identified.[1]

34. Meanwhile, according to the administering Power, the Falkland Islands (Malvinas) works to uphold a number of other environmental treaties, including the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on the Conservation of Migratory Species of Wild Animals, and the Ramsar Convention on Wetlands.[1]

35. According to information provided by Argentina, the Argentine Republic has rejected the territorial application effected by the United Kingdom of the Convention on Climate Change and the Kyoto Protocol, the international Agreement on the Conservation of Albatrosses and Petrels, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on the Conservation of Migratory Species of Wild Animals, and the Ramsar Convention on Wetlands, on the grounds that the Falkland Islands (Malvinas), South Georgia and

[4] See also http://unfccc.int/resource/docs/natc/argnc2s.pdf, Executive Summary, ARG/COM/3 E.

[5] See www.acap.aq.

the South Sandwich Islands along with the surrounding maritime areas were an integral part of the territory of Argentina.[6]

V. Social conditions

A. General

36. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms have been extended to the Falkland Islands (Malvinas) by the administering Power. Furthermore, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under those instruments. There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women, including its Optional Protocol, and the United Nations Convention on the Rights of the Child have been applied by the United Kingdom in the Falkland Islands (Malvinas).

37. As previously reported, Argentina has consistently rejected the territorial application by the United Kingdom of these various instruments, as well as the designation of the Territory as Overseas Dependent Territories of the United Kingdom or any other similar designation. More information on the subject is contained in the 2007 working paper prepared by the Secretariat (A/AC.109/2007/13).

B. Public health

38. According to the administering Power, the general state of health in the Falkland Islands (Malvinas) is good. Medical and dental treatment and prescription drugs are free to all residents and to United Kingdom citizens under a reciprocal health agreement. All medical services are based at the King Edward VII Memorial Hospital in Stanley, which provides a full range of primary-care services to the civilian population, military personnel stationed in Stanley and foreign fishing fleets around the islands. In addition, there is a visiting medical service to outlying farm settlements. The Hospital has facilities to deal with acute medical and surgical conditions. It has 28 beds, including two maternity and two intensive care beds. Cases requiring specialist attention are first stabilized and then evacuated to the United Kingdom or Chile or, in emergencies, to Montevideo.

C. Social security and welfare

39. According to the administering Power, the Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all

[6] See A/AC.109/2007/13; United Nations Framework Convention on Climate Change document FCCC/SBI/2007/MISC.5.

employers and employees between the ages of 17 and 64. Implementation of the Falkland Islands Pension Scheme Ordinance 1997 commenced in 1998. That scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals within the Falkland Islands (Malvinas) can make contributions, under employer-employee agreements or voluntarily, during their working lives and receive a pension upon retirement. A system of social welfare grants and pensions is in place to deal with cases of hardship and disability.

D. Education

40. Education in the Falkland Islands (Malvinas) is free and compulsory for all children between the ages of 5 and 16, with access to pre-school (nursery) education from the age of four. The local Government provides staff, equipment and supplies for education, has a primary and a secondary school in Stanley and operates two settlement schools. In the rural areas, younger children either attend the settlement schools or are visited by one of six travelling teachers for two weeks out of every six. There are also telephone lessons available. Students above the age of 16 who qualify in examinations are funded for studies overseas, mostly in the United Kingdom.

41. According to the administering Power, in 2006-2007 there were 399 schoolchildren being educated in the Falkland Islands (Malvinas), while continuing education past 18 years of age was being provided locally through the Training Unit of the Education Service, involving 28 students. Meanwhile, 51 further and higher education pupils were being educated overseas.[1] According to information provided by Argentina, the inhabitants of the Falkland Islands (Malvinas) are entitled to have access to the Argentine public education system.

VI. Participation in international organizations and arrangements

42. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Representatives of the Government have participated, as members of the United Kingdom delegation, in discussions on various matters affecting their interests.

43. In its letter of 14 November 2005 to the Secretary-General, the Government of Argentina rejected the declaration made by the United Kingdom extending the territorial scope of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction to the Falkland Islands (Malvinas). In a letter dated 27 April 2006 to the Secretary-General, the Permanent Representative of the United Kingdom to the United Nations rejected that position. More information on the subject is contained in the 2007 working paper prepared by the Secretariat (ibid.).

44. Under the United Nations Convention on the Law of the Sea, claims for an extended continental shelf are to be submitted to the Commission on the Limits of the Continental Shelf by May 2009. According to the United Kingdom, it is researching its submission to the Commission in respect of the continental shelf

around the Falkland Islands (Malvinas) and South Georgia. Plans for that submission have not been finalized. In June 2007, the United Kingdom proposed to meet with Argentina on the matter.[1]

45. In that connection, on 25 September 2007, the President of Argentina, Néstor Kirchner, in his address to the General Assembly (A/62/PV.5) stated that his "Government vigorously rejects the British claim on the establishment of maritime areas" surrounding the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands. The President indicated that Argentina rejected in particular the United Kingdom's stated intention to make such a submission to the Commission on the Limits of the Continental Shelf.

VII. Consideration by intergovernmental organizations and forums

46. On 5 June 2007, the General Assembly of OAS adopted a Declaration on the Question of the Malvinas Islands (Falkland Islands) (see A/61/986, annex), in which, inter alia, it welcomed the reaffirmation of the will of the Argentine Government to continue exploring all possible avenues towards a peaceful settlement of the dispute and its constructive approach towards the inhabitants of the Malvinas Islands (Falkland Islands). It reaffirmed the need for the Government of Argentina and the United Kingdom to resume, as soon as possible, negotiations on the sovereignty dispute, in order to find a peaceful solution to that protracted controversy. The General Assembly of OAS decided to continue to examine the question of the Malvinas Islands (Falkland Islands) at its subsequent sessions, until a definitive settlement had been reached thereon.

47. According to information provided by Argentina, on that occasion, Foreign Minister Taiana referred to:

> The question of the Malvinas Islands, a special and particular case of decolonization which this organization has described as a matter of enduring hemispheric concern and is keeping under consideration until a definitive settlement has been reached, while reaffirming the need for the Governments of the Argentine Republic and the United Kingdom to resume, as soon as possible, negotiations on the sovereignty dispute, in order to find a peaceful solution to this controversy.[7]

48. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) by OAS was stated in a note verbale dated 5 June 2007 from the Permanent Observer of the United Kingdom to OAS to the Chair of the General Assembly of OAS (see A/61/1024, annex). Referring to the aforementioned Declaration on the Question of the Falkland Islands (Malvinas) adopted by the General Assembly of OAS, the Permanent Observer inter alia stated that:

> The United Kingdom's position was last set out in detail by the United Kingdom's Permanent Representative to the United Nations, Sir Emyr Jones Parry, in a written right of reply dated 4 October 2006 (A/61/535) to the statement by President Néstor Carlos Kirchner of the Argentine Republic in

[7] www.oas.org/speeches.

the United Nations General Assembly on 20 September 2006. That remains the United Kingdom's position. The United Kingdom has no doubts about its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas.[1]

49. The Heads of State and Government of the Iberoamerican countries, meeting in Santiago from 8 to 10 November 2007, issued a special communiqué on the question of the Falkland Islands (Malvinas) in which they reaffirmed "the need for the Governments of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to renew negotiations as soon as possible with a view to finding an early resolution to the sovereignty dispute relating to the Malvinas Islands in accordance with the resolutions of the United Nations and the Organization of American States and the purposes and principles of the Charter of the United Nations, including the principle of territorial integrity".[8]

50. According to information provided by Argentina, the Joint Declaration of the Presidents of the States Parties of MERCOSUR and Associated States, dated 18 December 2007, XXXIV Meeting of the Council of the Common Market, held in Montevideo, renewed their commitment to the Declaration of 25 June 1996 and, with regard to the Falkland Islands (Malvinas) reaffirmed their support for the legitimate rights of the Argentine Republic with regard to the sovereignty dispute. Moreover, the Presidents emphasized that the adoption of unilateral measures was incompatible with the relevant United Nations resolutions and recalled that there was a regional interest in reaching a solution as soon as possible.

51. Furthermore, according to information provided by Argentina, the Ministers for Foreign Affairs of the South American and Arab Countries, meeting in Buenos Aires on 20 and 21 February 2008, to review progress achieved in various fields of cooperation between the two regions since the convening of the Brasilia Summit in May 2005, called upon Argentina and the United Kingdom in regard to the Falkland Islands (Malvinas) to resume negotiations in order to find, as soon as possible, a fair, peaceful and lasting solution to the sovereignty dispute, in accordance with the relevant United Nations resolutions. They further stated that "the inclusion of the Malvinas, South Georgias and South Sandwich Islands as territories associated to Europe under Annex II to Title IV, 'Association of Overseas Countries and Territories', of Part III of the Treaty amending the Treaty on European Union and the Treaty Establishing the European Community is not in accordance with the fact that a sovereignty dispute over such islands exists."

VIII. Future status of the Territory

A. Position of the administering Power

52. By a letter dated 1 October 2007 addressed to the President of the General Assembly (A/62/469), the Permanent Representative of the United Kingdom stated the position of his Government in exercise of the right of reply to the remarks of the President of Argentina in his address to the General Assembly on 25 September 2007 as follows:

[8] See XVII Cumbre Iberoamericana, www.oei.es/cumbres.htm.

The British Government attaches great importance to the principle of self-determination as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.

The elected representatives of the Falkland Islands once again expressed their own views clearly when they visited the United Nations for this year's debate in the Committee of 24. They asked the Committee to recognize that they, like any other people, were entitled to exercise the right of self-determination. They reiterated that the people of the Falkland Islands did not wish for any change in the status of the Islands.

There can be no negotiations on the sovereignty of the Falkland Islands unless and until such time as the islanders so wish.

The United Kingdom has no doubts about its sovereignty over the Falkland Islands.

53. In his Christmas message to the Territory in December 2007, the Prime Minister of the United Kingdom, Gordon Brown, restated the commitment of the United Kingdom to the islanders and their right of self-determination, against the backdrop of the twenty-fifth anniversary of the conflict over the Falkland Islands (Malvinas):

> As this anniversary year draws to a close I would like to restate my Government's commitment to protecting the Falkland Islanders' right to self-determination. I have no doubts about the United Kingdom's sovereignty over the Falkland Islands and undertake to uphold your security and everything you have worked so hard to achieve over the past 25 years.[1]

B. Position of the Government of Argentina

54. As reflected in the official record of the meeting of the General Assembly, on 25 September 2007 (A/62/PV.5), the President of Argentina, Néstor Kirchner, in his address to the General Assembly, inter alia flagged the continuing importance to Argentina of the question of the Falkland Islands (Malvinas), including South Georgia and the South Sandwich Islands, as well as the maritime areas surrounding those islands:

> This year, 174 years will have passed since the British began to occupy this part of Argentine national territory. Ever since that act of force in 1833, my country has protested against this illegal occupation and has demanded that the full exercise of its sovereignty be restored.
>
> We would also mention that 2007 marks the twenty-fifth anniversary of the 1982 conflict in the South Atlantic, a conflict unleashed by the military dictatorship without the backing of the Argentine people, who had always endeavoured to find a peaceful solution to its legitimate sovereignty claim.
>
> The General Assembly has dealt with this matter on many occasions, both prior to and since 1982. Starting in 1965, when the Assembly adopted resolution 2065 (XX), the Organization has recognized, year after year, the existence of a sovereignty dispute between Argentina and the United Kingdom relating to the question of the Malvinas Islands. It urged the two Governments

to negotiate, as soon as possible, a peaceful, just and lasting solution to the dispute, taking into account the relevant resolutions of United Nations bodies and the interests of the people of the islands. The ongoing and unrenounceable objective of regaining the full exercise of Argentine sovereignty over this part of our territory and the permanent readiness of my country to resume negotiations aimed at finding a solution to the dispute have been reflected in our national Constitution.

It is incomprehensible to us that the United Kingdom should be unwilling to negotiate this matter, thereby violating the provisions of General Assembly resolution 2065 (XX) and numerous similar resolutions.

55. According to information provided by Argentina, in her inaugural speech to the Legislative Assembly on 10 December 2007 the recently elected President of Argentina, Cristina Fernández de Kirchner, stated that "I also wish to reaffirm, once again, our irrevocable and undeniable claim of sovereignty over our Malvinas Islands. We call upon the occupying country, which in all international forums appears to be advanced and law-abiding, to acknowledge that this is a colonial enclave that has been denounced at the United Nations and that it is time to comply once again with the mandate of the United Nations, of which all of us are members."[9]

IX. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

56. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 8th meeting, on 21 June 2007 (see A/AC.109/2007/SR.8). At that meeting, the Special Committee decided to accede to the request of Argentina, Brazil, Paraguay, Peru and Uruguay to participate in the consideration of the item.

57. At the same meeting, statements by Ian Hansen and Richard Davies, from the Legislative Council of the Falkland Islands (Malvinas) were heard. James Douglas Lewis and Marcelo Vernet also made statements (ibid.).

58. The representative of Chile, on behalf of Bolivia, Chile, Cuba and the Bolivarian Republic of Venezuela introduced draft resolution A/AC.109/2007/L.8. The draft resolution reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the peaceful and negotiated settlement of the dispute over sovereignty between the Governments of Argentina and the United Kingdom. It requested both parties to consolidate the current process of dialogue and cooperation through the resumption of negotiations in order to find a solution, in accordance with the provisions of the relevant General Assembly resolutions.

59. At the same meeting, the Foreign Minister of Argentina, Jorge Taiana, as reflected in the summary record of that meeting (ibid.), stated, inter alia that the General Assembly and the Special Committee considered the question of the

[9] www.casarosada.gov.ar.

Malvinas Islands (Falkland Islands) to be different from traditional colonial disputes in that it involved a sovereignty dispute. He recalled that General Assembly resolution 2065 (XX) had recognized the justice of his Government's claim by establishing that it constituted a colonial issue that involved the existence of a sovereignty dispute between Argentina and the United Kingdom as sole parties. The Foreign Minister concluded that, by accepting the existence of the dispute and urging both parties to negotiate, the resolution excluded application of the principle of self-determination as a means of dispute settlement. To grant self-determination to the British inhabitants, whose ancestors had been transplanted from the United Kingdom after the usurpation, would imply acceptance of a violation of Argentina's territorial integrity, according to the Foreign Minister. The Foreign Minister reiterated the willingness of the Government of Argentina to cooperate with the United Kingdom on practical matters arising from the de facto situation in the South Atlantic, provided that that cooperation helped create conditions favourable to the resumption of sovereignty negotiations in accordance with the resolutions of the United Nations and other international bodies. However, despite the re-establishment of bilateral relations with the United Kingdom in 1990 and the provisional understandings reached under the sovereignty formula, the United Kingdom had continued to introduce unilateral modifications in the situation, such as the enlargement of the British military base, in violation of those agreements and of General Assembly resolutions, particularly resolution 31/49 of 1 December 1976. Since 2006, his Government had repeatedly invited the United Kingdom to discuss the status of those provisional understandings and, in particular, the existence of a sovereignty dispute and the obligation of both parties to resolve it by resuming bilateral negotiations. Moreover, both States had reaffirmed their commitment to negotiate in their Joint Declaration of 19 October 1989. The Foreign Minister found it unfortunate that "the intransigence of the United Kingdom has thus far prevented frank and open dialogue". The Foreign Minister went on to say the United Kingdom's attitude was in sharp contrast to that of the countries members of the Zone of Peace and Cooperation of the South Atlantic, which had met that week in Luanda, and had stressed the need for Argentina and the United Kingdom to resume negotiations as soon as possible in order to resolve the sovereignty debate.

60. At the same meeting (ibid.), the representatives of Bolivia, Brazil, Chile, China, the Congo, Cuba, Indonesia, Paraguay, Peru, the Russian Federation, Sierra Leone, the Syrian Arab Republic, Tunisia, Uruguay and the Bolivarian Republic of Venezuela also made statements.

B. Special Political and Decolonization Committee (Fourth Committee)

61. On 8 October 2007, during the debate on decolonization issues in the Special Political and Decolonization Committee (Fourth Committee), during the sixty-second session of the General Assembly, several representatives referred to the question of the Falkland Islands (Malvinas). The representative of the Dominican Republic, speaking on behalf of the Rio Group, expressed its support for the Government of the Argentine Republic and felt confident that the Governments of the Argentine Republic and of the United Kingdom would resume negotiations to find a peaceful, just and definitive solution to the sovereignty dispute. The representative of Uruguay, speaking on behalf of MERCOSUR member States and

associated States, called on the parties to respect the will of the international community, as reflected in the relevant resolutions, and to resume negotiations in order to resolve their dispute (see A/C.4/62/SR.2).

62. The representative of the United Kingdom, in exercise of the right of reply, said that the United Kingdom's position on the issue was well known and had been reiterated on 1 October 2007 by the Permanent Representative of the United Kingdom. The United Kingdom had no doubts about its sovereignty over the Falkland Islands (Malvinas). There could be no negotiations on the sovereignty of the Territory unless and until such time as the islanders so wished (ibid.).

C. Action taken by the General Assembly

63. By adopting its resolution 58/316, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present report, there had been no such notification by a Member State to the General Assembly.